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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/868,401	09/17/2001	Anne Coenraad Hulst	294-101PCT/U	9260

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04/10/2002

EXAMINER

TATE, CHRISTOPHER ROBIN

ART UNIT PAPER NUMBER

1651

DATE MAILED: 04/10/2002

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Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.  
**09/868,401**

Applicant(s)  
**Hulst et al.**

Examiner  
**Christopher Tate**

Art Unit  
**1651**

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-9, 12, 13, 16-18, and 22-39 is/are pending in the application.
- 4a) Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☒ Claims 1-9, 12, 13, 16-18, and 22-39 are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. § 119

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).  
a) ☐ All b) ☐ Some\* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\*See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

### Attachment(s)

- 15) ☐ Notice of References Cited (PTO-892)                      18) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 16) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)                      19) ☐ Notice of Informal Patent Application (PTO-152)
- 17) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_                      20) ☐ Other: \_\_\_\_\_

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## **DETAILED ACTION**

### ***Election/Restrictions***

Restriction is required under 35 U.S.C. 121 and 372.

This application contains the following inventions or groups of inventions which are not so linked as to form a single general inventive concept under PCT Rule 13.1.

In accordance with 37 CFR 1.499, applicant is required, in response to this action, to elect a single invention to which the claims must be restricted.

Group I, claim(s) 1-8, 16-18, drawn to a method of separating components from vegetable material.

Group II, claim(s) 9, drawn to a first product, a fiber fraction obtained from of a vegetable material.

Group III, claim(s) 12, 13, 22, 23, drawn to a second product, a juice stream obtained from a vegetable material.

Group IV, claim(s) 24-31, drawn to a third product, a biodegradable product (such as paper, soil improver, fuel, etc.) comprising a fiber fraction obtained from vegetable material.

Group V, claim(s) 32-37, drawn to a fourth product, a nutritional product comprising a juice stream obtained from a vegetable material.

Group VI, claim(s) 38, drawn to an apparatus.

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The inventions listed as Groups I-VI do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, they lack the same or corresponding special technical features for the following reasons: The broadly claimed special technical feature of the Group I method (as well as a vegetable fiber fraction obtained thereby) is taught by the prior art as evidenced by US 5,464,160. Since no special technical feature exists for the Group I method as well as the first product (a vegetable fiber fraction, per se), there is no Unity of Invention. Further, the special technical feature of the Group II product is a fiber fraction, per se, obtained from vegetable material; whereas the special technical feature of the Group III product is a juice stream, per se, obtained from vegetable material. Thus, the special technical feature of Group II is missing from Group III, and vice-versa (and from the subsequent products of Groups IV-V with respect to a vegetable fiber fraction vs. a juice stream, respectively), none of which share the special technical feature of Group IV which is an apparatus. In addition, please note that under 371, applicants are entitled to a first product for within a special technical feature Group. All subsequent products are restrictable under US restriction practice. Accordingly, the products of Groups II-V are distinct each from the other, firstly because the products of Groups II (vegetable fiber fraction, per se) and III (vegetable juice stream, per se) are well known in the prior art and thus do not represent a special technical feature in the art; and secondly, they comprise mutually exclusive agents therein (e.g., a fiber fraction vs. a juice stream obtained from vegetable material) which can be used as is (e.g., the fiber fraction can be used alone as a rich-protein source and/or dietary fiber and the vegetable stream can be used alone as a vegetable juice) without being

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added to the product compositions of Groups IV-V which, as evidenced by the claims themselves, can be used in numerous distinct applications.

This application also contains claims directed to more than one species of the generic invention with respect to the Group IV invention above. These species are deemed to lack unity of invention because they are not so linked as to form a single general inventive concept under PCT Rule 13.1.

The species are as follows: The various distinct biodegradable products of Group IV:

- a) a paper, cardboard, fiberboard, moisture absorbing material (e.g., claims 25-28)
- b) a component of growth media (e.g., claim 29)
- c) a soil improver (e.g., claim 30)
- d) a fuel to produce energy (e.g., claim 31)

Thus, if Group IV is elected, applicant is required, in reply to this action, to elect a single species [from groups (a)-(d) above] to which the claims shall be restricted if no generic claim is finally held to be allowable. The reply must also identify the claims readable on the elected species, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered non-responsive unless accompanied by an election.

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Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

The following claim(s) are generic: claim 24. The species listed above do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, the species lack the same or corresponding special technical features for the following reasons: The special technical feature of the species of groups (a)-(d) are their distinct claimed intended uses which are not required of the other species groups, with respect to the biodegradable composition of Group IV.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher R. Tate whose telephone number is (703) 305-7114. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Wityshyn, can be reached at (703) 308-4743. The Group receptionist may be reached at (703) 308-0196. The fax number for art unit 1651 is (703) 308-4242.



Christopher R. Tate  
Primary Examiner, Group 1651